



IRS Stakeholder Headliners

...and more

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IRS Proposes to Charge a User Fee to Process Offers-in-Compromise

On November 5, 2002 the IRS issued proposed regulations, which, if adopted, would require a \$150 processing user fee from most taxpayers who submit an offer-in-compromise to resolve their unpaid tax liabilities. The user fee proposal was developed with input from tax professionals, Low-Income Taxpayer Clinics and the IRS National Taxpayer Advocate. A 90-day public comment period begins on November 6, 2002 and ends on February 4, 2003. There are no changes to existing offer-in-compromise procedures during the 90-day comment period.

Written or electronic comments on the proposed regulations must be received by February 4, 2003. A public hearing on the proposed regulations will be held in Washington, D.C. on February 13, 2003, at 10 a.m. at the IRS, 1111 Constitution Ave., N.W., Room 4718. Persons who wish to present oral comments at the hearing must submit comments and an outline of topics to be discussed by January 23, 2003. Submissions should be addressed to: CC:ITA:RU (REG-103777-02), Room 5226, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Comments can also be submitted electronically through the IRS Web site at www.irs.gov/regs.

The proposed regulations would exempt certain taxpayers from paying the processing fee. These taxpayers are:

- Low-income individuals whose income is at or below the poverty line. For this purpose, the IRS will use the poverty guidelines published by the Department of Health and Human Services. The IRS is developing a form, which will assist taxpayers in determining whether they qualify for the low-income waiver. This exemption **will not** apply to corporations and partnerships.
- Individuals whose offer is filed **solely** on the basis of doubt as to liability (where doubt exists that the tax assessed is correct).
- Taxpayers whose offer is accepted to promote effective tax administration, or whose offer is otherwise accepted based on a finding of economic hardship. In these cases the fee will be collected when the offer is submitted, and refunded once the IRS determines that the offer should be accepted for these reasons.

Why a User Fee?

In recent years the volume of OICs has increased enormously. A comprehensive review of OICs revealed that, while a majority of taxpayers and preparers were making appropriate use of the program, others were merely using the offer program as a vehicle to delay the collection process. Collection personnel were investing significant time on cases that were not viable offer candidates. Although the IRS responded proactively to these problems by instituting several new processes — including centralizing offer operations in two Service Centers — it continues to deal with the issue of strained collection resources and its need to service taxpayers and tax professionals in a timely and efficient manner.

For over a year, the IRS has worked to develop an OIC user fee proposal. The purpose of the user fee would be the same as the purpose of the installment agreement user fee: to defray the administrative costs associated with providing a specialized service to a limited segment of taxpayers. Typically user fees recover the full cost to the government of the service for which it is charged. However, user fees reflecting less than its full cost may sometimes be charged. The OIC user fee of \$150 will not recover the full cost to the IRS of processing offers. Recognizing that charging the full cost might prevent many taxpayers from participating in the OIC program, the IRS has determined that a user fee of \$150 is reasonable and would not deter taxpayers from participating in this program.

What is an Offer-in-Compromise?

The IRS has the authority to settle, or compromise federal tax liabilities by accepting less than full payment under certain circumstances. If a taxpayer makes an offer to compromise liabilities and the IRS accepts the offer, the taxpayer's liabilities are settled as provided for in the offer. There are three bases for the IRS to accept an offer-in-compromise:

1. **Doubt as to Liability:** Doubt exists that the assessed tax is correct.
2. **Doubt as to Collectibility:** Doubt exists that the taxpayer has the ability to pay the full amount of tax owed.
3. **Effective Tax Administration:** When there are no other bases for compromise, the IRS may enter into a compromise to promote effective tax administration if collection of the full liability would cause the taxpayer economic hardship, or if compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for compromising the liability.

Currently, IRS will process an offer-in-compromise only where the taxpayer:

- filed all required federal tax returns,
- is not in bankruptcy, and
- submitted the offer using the May 2001 version of the Offer-in-Compromise Form 656, and Collection Information Statements Forms 433-A and/or 433B.

Taxpayers who are businesses must also have timely filed and timely deposited all employment taxes for two quarters preceding offer submission, and timely paid all federal tax deposits due in the quarter in which the offer is submitted.